THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7343 of 2002

24-08-2005

Between:

1 P.Gurraju, S/o. Apparao,
Sri V.V.S.S.Devasthanam, Annavaram, E.G.District.

..... PETITIONERS

AND

Sri V.V.S.S.Devasthanam, Rep. by its Additional Commissioner and Executive Officer, Annavaram, E.G.District.

.....RESPONDENT

THE HON'BLE MR JUSTICE K.C. BHANU

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O R D E R:

The respondent herein is Sri V.V.S.S.Devasthanam, Annavaram represented by its Additional Commissioner and Executive Officer and the petitioners herein are their employees.

It is stated in the affidavit filed in support of the writ petition that the police personnel arrested the petitioners on the ground that on 02-02-2002 at about 2.00 p.m. the petitioners along with two ladies, who are residents of Tuni, sang obscene songs at TTD Choultry, Annavaram and thereupon a charge sheet has been filed against them for the offence punishable under Section 294 IPC. Later the police

reported the incident in all leading news papers in the local editions on 03-02-2002. Basing on the news item published in the news papers, a memo in R.C.No.A1/481/02 dated 03-02-2002 has been issued by the respondent-Devastanam placing the petitioners under suspension pending enquiry. Subsequently, an enquiry has been ordered and one Sri P.Govindarao who is the Personal Assistant to the Executive Officer has been appointed as an enquiry officer. He conducted an enquiry and submitted a detailed report to the respondent-Devastanam in the last week of February, 2002. Pursuant to the same, the petitioners submitted a detailed explanations to the charges levelled against them. It is the case of the petitioners that there was no complaint from any pilgrim or any other person about the occurrence of the alleged incident on 02-02-2002 and no person who stayed in the cottage gave a complaint against them about the alleged incidents. Challenging the same, the petitioners filed O.A.No.2680 of 2002 before the A.P. Administrative Tribunal assailing the impugned orders, wherein the Tribunal directed the petitioners to approach appropriate forum and question the impugned orders. The grievance of the petitioners is that the respondent-devastanam has not vested with the powers to pass the impugned orders as the respondent is not the appointing authority and therefore, the impugned orders are exfacie illegal and are liable to be set aside on the ground of non observance of the principles of natural justice. Therefore, they approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India.

None appeared for the respondent-Devasthanam and no counter affidavit has been filed.

Learned counsel for the petitioners contended that officially the respondent-Devastanam has not received any complaint about the alleged acts of the petitioners and merely basing on the paper clippings, the respondent-Devastanam passed the impugned orders and placed the petitioners under suspension. Therefore, it can be said that the order impugned suffers from non-application of mind. Further it is contended that the respondent-Devasthanam is not the appointing authority so as to take any disciplinary action against the petitioners and that there is no mention in the impugned order about the source of power to pass such an order and on that ground also, the impugned proceedings are liable to be set aside.

I have perused the material available on record.

It is not in dispute that the petitioners herein were arrested by the police on 02-02-2002 in connection with the crime in P.T.C.Nos.33 to 38 of 2002 of Annavaram Police Station for an offence registered under Section 294 IPC, causing obscene acts in the respondent-Devasthanam. Therefore, prima-facie case is made out against the petitioners about their misconduct. There cannot be any dispute that by virtue of the paper clippings, the respondent-Devasthanam passed the impugned orders placing the petitioners under suspension. Even though, the said paper clippings were not allowed to be taken into consideration for the purpose of placing the employees under suspension, the respondent-devasthanam with a view to protect the image of the temple in the public, has every right to place the petitioners under suspension. The petitioners, being the employees of the respondent-Devasthanam are required to maintain high standards of integrity and honest and their conduct should not be blameworthy.

It is the case of the petitioners that despite the Personal Assistant to the Executive Officer, who is an enquiry officer submitted a preliminary report to the authorities, the respondent-Devasthanam has not proceeded further in the case. But that itself does not vitiate the case of the petitioners. Therefore, viewed from any angle it cannot be said that the impugned orders passed by the respondent-devasthanam suffers from non-application of mind.

The next point argued by the learned counsel for the petitioners is that the respondent-devasthanam is not the appointing authority and the impugned order does not indicate the powers vested with them in passing the impugned order. Therefore, the impugned order is liable to be set aside.

Simply because the source of power has not been mentioned in the impugned order, that itself is not a ground to set aside the impugned order. Since the impugned order is suspended by this Court and the same does not shown to be issued contrary to any of the provisions of law and the jurisdiction of the authority, it does not suffer from any illegality calling interference by this Court.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

24-08-2005

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